

Released by Air Quality Sciences, Inc.
Date Prepared: November 19, 1996
AQS Project #: 02792
AQS Report #: 02792-02

REFERENCES

1. ASTM D 5116, "Standard Guide for Small-Scale Environmental Chamber Determinations of Organic Emissions from Indoor Materials/Products." ASTM, Philadelphia, PA, 1990.
2. State of Washington Indoor Air Quality Specifications, Department of General Administration, Furniture Specification, January, 1994.
3. Winberry, W. T., et al., "Compendium of Methods for the Determination of Air Pollutants in Indoor Air", Office of Research and Development, USEPA, RTP, NC, April 1990.
4. Bertoni, G., F. Bruner, A. Liberti, and C. Perrino, "Some Critical Parameters in Collection, Recovery, and Gas Chromatographic Analysis of Organic Pollutants in Ambient Air Using Light Adsorbents." J. Chromatogr., 203, 263-270 (1981).
5. Bruner, F., G. Bertoni, and G. Crescentini, "Critical Evaluation of Sampling and Gas Chromatographic Analysis of Halocarbons and Other Organic Air Pollutants." J. Chromatogr., 167, 399-407 (1978).
6. Mangani, F., A. Mastrogiacomo, and O. Marras, "Evaluation of the Working Conditions of Light Adsorbents and Their Use as Sampling Material for the GC Analysis of Organic Air Pollutants in Work Areas." Chromatographia, 15, 712-716 (1982).
7. NIOSH Manual of Analytical Methods. Method 0500, NIOSH Publication 84-100, 1985.
8. Sparks, Leslie, Indoor Air Exposure Model, Version 2.0, Air and Energy Engineering Research Laboratory, USEPA, RTP, NC, April, 1991.



United States
CONSUMER PRODUCT SAFETY COMMISSION
Washington, D.C. 20207

MEMORANDUM

DATE: November 1, 1996

TO : Patricia Adkins
Chief of Staff, COAB

FROM : Judith Hayes *J. Hayes*
Compliance Officer, CECA

SUBJECT: CPSC CA930075
Phifer Wire Products, Inc.
Polymer (PVC) Coated Fiberglass Screening Material

Pursuant to recent consumer inquiries and our meeting of October 22, 1996, I contacted Phifer Wire Products, Inc. October 24, 1996 requesting additional information to supplement the staff's initial investigation of 1993. I also contacted Kirpal S. Sidhu, Ph.D., Toxicologist, and John Hesse, (title unknown) both members of the staff of the Michigan Dept. of Community Health.

The following are basic points of information provided by my inquiries. Copies of referenced documents are attached for your review.

- Since the closing of staff's initial investigation in 1993, the firm reports 15 additional complaints from consumers concerning off-gassing of the original screen material. The complaints date from July 1993 to July 1996. (Fourteen of the complaints are listed in the firm's letter of July 2, 1996 and one complaint is mentioned in the firm's letter of October 30, 1996.) The approximate number of known complaints regarding the original screen material is 59. Included in this calculation are seven lawsuits; three of which have been settled. (Ref. 10/30/96 letter, item 3)

- Not contained in the file upon our October 22, 1996 review of the case, is the firm's correspondence of July 2, 1996, which provides us with an additional test analysis of the original screen formulation performed February 16, 1995. This analysis was paid for by the firm but performed at the request of the consumer Mary Olsson and entailed an in-depth testing of screens removed from Ms. Olsson's home. Additionally, the lab that tested the subject screens was selected by Ms. Olsson. Without going into the technical aspect of the test results, the emission rates from the subject original screens were found to be far below any level considered to be potentially toxic. These results are,

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consistent with the four previous tests of the subject screening. A copy of the July 2, 1996 correspondence, including test material was provided to Lori Saltzman for review.

- The firm acknowledges receipt of consumer complaints concerning the new screen formulation, however, the complaints stem from homes that received the new screen formulation as replacement screens for the original screens. An interesting point is that, reportedly, the replacement screens involved in the complaints had not been installed long enough to have degraded and exhibit the same characteristics as the original screens. As you are aware, there is speculation that in these cases, the household members appear to have a certain degree of sensitiveness to any vinyl odor. The firm is not aware of any complaints from home installations that only received the new screen formulation. An exact number of complaints involving the new formulated screens is not available. It is estimated by the firm that there were approximately two or three complaints of this nature that were generated around 1993 when the firm began to replace the original screens with the new formulated screens. The firm is presently conducting tests on the new formulated screens concerning the issue of toxic emissions and will provide us with the report once it is available.

- I contacted Dr. Sidhu and Mr. Hesse concerning the issue of complaints regarding the new screen formulation. Mr. Hesse reported he was aware of one complaint that involved a co-worker's family members that received the new formulated screens. The family immediately complained to the of an odor and a visible "haze" being emitted from the screens. The screens were removed soon after installation which did not allow time to notice any development of adverse health effects. Dr. Sidhu and Mr. Hesse were aware of possibly two other new formulated screen complaints, however, just as the firm reports, the complaints involve consumers that received the new screens as replacements for the original screen formulation and that the complaints were made soon after the installation of the new replacement screen.

Since August 29, 1996, Dr. Sidhu and Mr. Hesse have surveyed Michigan county and district health departments to collect consumer complaints concerning the screens. Unfortunately, their survey does not distinguish between the new and old screen formulation. The gentlemen agreed to inform us any information they obtain from the subject survey.

- The firm responded to Health Sciences's (HS) inquiries requested in my letter of October 24, 1996 and provided

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samples of the new formulated screen. This material was given to Lori Saltzman for review. Requested samples of the original formulated screens were not available from the firm. If HS decides these samples are required, it is suggested we collect Joe Bergantino's sample screens.

Based on the above information, it is assumed more discussion and review of subject material by HS is required prior to conclusion of this stage of the investigation of Phifer Wire Products. Please contact me if additional information is required.

Attachments:

Firm's letter of July 2, 1996
Staff's letter of October 24, 1996
Firm's letter of October 30, 1996

cc: Marc Schoem
Alan Schoem
Lori Saltzman
Valentine Schaeffer

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PHIFER WIRE PRODUCTS, INC.

P. O. BOX 1700 • TUSCALOOSA, ALABAMA 35403-1700 U.S.A.

■ CHARLES E. MORGAN
Executive Vice President and Corporate Counsel

October 30, 1996

Ms. Judith Hayes
Compliance Officer
U.S. Consumer Product Safety Commission
4330 East West Highway, Room 613
Bethesda, MD 20814-4408

Via Airborne

Re: CPSC CA930075
Phifer Wire Products, Inc.
Polymer (PVC) Coated Fiberglass Screening

RECEIVED
CPSC COMPLAINTS
OCT 31 12:57

Dear Ms. Hayes:

I am writing in response to your letter of October 24, 1996 and will address each numbered item of your letter in correspondingly numbered paragraphs below.

- (1) We have received one consumer complaint since our update report of July 2, 1996. Enclosed is a copy of a letter dated July 19, 1996 from Peter I. Tzilos and also a copy of my response dated July 29, 1996. I have not heard from Mr. Tzilos since mailing that letter. All the test reports and other "enclosures" referred to in my letter to Mr. Tzilos were provided to the C.P.S.C. in our previous reports.

There may be another consumer who has reported some problem with our product. We received a message to that effect from our customer - a window manufacturer - but have not received any information from the consumer nor do we know the consumer's name. As soon as we receive more information, I will forward it to you.

- (2) When we first received complaints, in 1991 and 1992, regarding screening that had been manufactured in 1988 and 1989, we replaced some of that screening with new formula PVC-coated fiberglass screening. Several of those consumers immediately complained about the odor of the new product - long before it had time to degrade and exhibit the kind of odor associated with the rapidly degrading 1988-89 vintage material. This led us to the conclusion that a small percentage of consumers are sensitive to any vinyl odor (all new vinyl products have some plastic odor). You already have copies of all our correspondence with those consumers. I do not know if anyone since then has complained about our current formula screening.

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Ms. Judith Hayes
October 30, 1996
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- (3) Enclosed are complete copies of the complaints filed in the seven lawsuits mentioned in my July 2, 1996 letter. These are the only products liability lawsuits filed against Phifer Wire Products in the company's 44-year history. The three suits that have been settled and dismissed without any finding or admission of product defect or liability (settlement amounts in parentheses) are Chase (\$49,500), DeMan (\$15,000) and Kamuda (\$23,500).

CONFIDENTIAL
SEE P.S.

- (4) Prior to January 1, 1988 our PVC formulation consisted of the following ingredients:

diisononyl phthalate or "DINP"

Drapex® 4.4 octyl epoxy tallate plasticizer

Polypeg® E-400 polyethylene glycol ester

Oxy-dispersion resin PVC homopolymer

GEON dispersion resin PVC homopolymer

GEON blending resin PVC homopolymer

Silicone fluid (polydimethylsiloxane)

Kerosine

Thermoguard S antimony trioxide

aluminum paste pigment

black paste - carbon black pigment

white paste - zinc sulfide pigment

(For silvergray but not for charcoal screening)

Dyphos lead stabilizer (dibasic lead phosphite)

CONFIDENTIAL
SEE P.S.

- (5) The 1988-89 formula was the same as the above described pre-1988 formula; except that, beginning in January 1988, we substituted 2 pph (parts per hundred) of Therm-Check® 6223 calcium cadmium zinc stabilizer in place of the Dyphos lead stabilizer. Since the lead stabilizer used before 1988 came in the form of a white powder, a larger measure of carbon black pigment had to be used before 1988, as compared with the 1988-89 formulation, to achieve the correct colors. We believe that the

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October 30, 1996
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quantity of the calcium cadmium zinc stabilizer used was not enough to achieve the results achieved with the lead stabilizer. Furthermore, the problem was exacerbated by the reduction in carbon black pigment which also acts as a stabilizer. Consequently, the product, especially the silver gray color, degraded rapidly and sometimes emitted a bad odor when degrading. (Please note that the lead stabilizer used before 1988 was very effective - we never received consumer complaints for degradation or discoloration. The lead was removed because disposal of scrap material containing lead is a potential environmental problem. The small quantity of lead bound into the coating on the screening posed absolutely no threat to consumers and was never the basis of any complaints or claims of any kind).

CONFIDENTIAL
SEE P.S.

- (6) In July 1989, "the PVC formula was improved by increasing the amount of pigmentation" and by increasing the amount of calcium cadmium zinc stabilizer by 50% - from 2 pph to 3 pph. The above quoted statement from your letter and our 1993 Full Report refers to the fact that we more than doubled the quantity of "black paste" (carbon black pigment) in our plastisol formula for the silvergray screening. As explained in item (5) above, carbon black pigment acts as a stabilizer. To maintain the correct shade of gray despite the increase in carbon black pigment, we also added some white paste (zinc sulfide pigment) to the formula in July 1989.

We further improved the plastisol formula in November 1993 by replacing the Therm-Chek® 6223 calcium cadmium zinc stabilizer with Mark 4781A - a barium zinc heat stabilizer. For the silvergray, we also added Mark 1413 UV absorber and Camel Wite, a calcium carbonate filler.

- (7) Enclosed in separately sealed plastic bags are two samples, nine square feet each, of recently manufactured PhiferGlass insect screening - one charcoal and the other silvergray. Neither sample has ever been exposed to direct sunlight.

If you need additional information, please call me. My direct number is 205/750-4757.

Sincerely yours,

PHIFER WIRE PRODUCTS, INC.

Charles Morgan
Charles Morgan

Enclosures

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P.S. PLEASE NOTE THAT THE INFORMATION CONTAINED IN ITEMS (4), (5) AND (6) ABOVE IS HIGHLY CONFIDENTIAL PROPRIETARY INFORMATION ACQUIRED THROUGH YEARS OF RESEARCH, EXPERIMENTATION AND MANUFACTURING EXPERIENCE. WE HAVE PREVIOUSLY PROVIDED THAT INFORMATION TO INDIVIDUAL CONSUMERS BUT WOULD NOT WANT IT TO BE MADE AVAILABLE TO THE PUBLIC, IN GENERAL, AFTER IT BECOMES PART OF OUR CPSC FILE. THE ONLY THINGS THAT CAN AFFECT CONSUMERS ARE THE SUBSTANCES (VOCs) EMITTED FROM THE PRODUCT, WHICH CAN BE IDENTIFIED FROM THE EMISSIONS TEST DATA THAT WE HAVE ALREADY DISTRIBUTED AND DO NOT CONSIDER CONFIDENTIAL.

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Peter
I. Tzilos | Architects
Planners

18277 Filmore, Livonia, Michigan 48152

Telephone (810) 442-1340 Fax (810) 442-1341

19 July, 1996

Phifer Wire Products.
P.O. Box 1700
Tuscaloosa, Alabama 35403-1700

Re: Potential health-related problem with window screens.

Gentlemen:

The windows installed in our home are manufactured by PELLA WINDOW AND DOOR COMPANY, INC. According to the window manufacturer, the screens supplied with these windows have been manufactured by your company.

We are enclosing here a copy of our letter to the window manufacturer dated 19 July, 1996, identifying certain problems with the screens. The very concerns raised in this letter are also directed to your attention.

According to the window manufacturer, they are aware of certain problems with materials supplied by your company to them. They indicated however that they are not aware of any potential health-related problems.

We bring this matter to your attention and ask for your response in writing. If you are aware of any problems what-so-ever, please let us know. Also, please identify any studies conducted by you or on your behalf related in any way to this matter. We have three young children in our home and are very concern.

We would appreciate receiving your response in writing.

Sincerely,


Peter I. Tzilos

[Tzi-Erga\TextInfo\Personal\Phifer1]

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Peter
I. Tzilos | Architects
Planners

18277 Filmore, Livonia, Michigan 48152

Telephone (810) 442-1340 Fax (810) 442-1341

19 July, 1996

Pella Window and Door Company, Inc.
2000 Haggerty Road
West Bloomfield, Michigan 48033
Att: Mr. Ron Hanson, Service Manager

Re: Potential health-related problem with window screens.

Dear Mr. Hanson:

As you requested, I am returning to you for replacement, the window screens that were part of my window purchase from your company in 1988. We are enclosing a copy of the order form showing window sizes. In all, there are (30) screens of varying size & finish.

As I indicated to you over the telephone, we have been frantically trying to identify a foul odor throughout the house for a number of years now. Connected with this odor are a number of health concerns such as headaches, breathing difficulties, coughing, nausea, stomach cramps and similar effects.

It wasn't until very recently that someone suggested to check the window screens. Upon checking these screens closely, it became obvious that they were the problem. It seems the sun acts on this material, causing it to discolor and release some type of gas.

I should point out that an inspection of these screens will show that the ones facing East or South are extensively discolored and emit a very strong odor. Those facing North, or those shaded from the sun appear brand new with no apparent emissions.

All this has us very concerned about the possibility that we have been ingesting potentially dangerous materials. I ask that you inform us in detail of all that you know regarding this matter, including any potential risks, if any, so we may protect our selves accordingly.

I will also be contacting the screen manufacturer for information regarding this matter. Per the information provided by you, the screen material manufacturer is,

PHIFER WIRE PRODUCTS
P.O. BOX 1700
TUSCALOOSA, ALABAMA, 35403-1700

We would appreciate receiving your response in writing.

Sincerely,

Peter I. Tzilos
cc/ Phifer Wire Products
[Tzi-Elga\TextInfo\Personal\Pella1]

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PHIFER WIRE PRODUCTS, INC.

P. O. BOX 1700 • TUSCALOOSA, ALABAMA 35403-1700 U.S.A.

■ CHARLES E. MORGAN
Executive Vice President and Corporate Counsel

July 29, 1996

Mr. Peter I. Tzilos
18277 Filmore
Livonia, Michigan 48152

Dear Mr. Tzilos:

I have received your letter of July 19, 1996 and will respond to the questions and concerns you have expressed.

As Mr. Hanson at Pella Window and Door may have told you, we did experience some performance problems with the silver-gray colored fiberglass window screening that we sold in 1988. Prior to 1988, we used lead powder as a color stabilizer in the vinyl coating that is applied to the fiberglass yarn prior to weaving it into window screening. The lead stabilizer worked very well and posed no threat to homeowners. However, because of the environmental risk associated with disposal of products containing lead, we removed all lead from all our products. The environmentally safer, lead-free screening did not perform as well - some of it discolored prematurely and had to be replaced under our warranty program.

There was often a bad odor associated with the discolored screening. Out of the thousands of people for whom we replaced screening, there were a few who complained of allergic reactions to the odor, similar to the reactions you mention in your letter to Pella. In response to these reports, we hired a toxicologist at the University of Alabama School of Public Health to test the material. He concluded that the screening poses no significant health risk. He said the substances emitted could be temporary irritants for some people, but that symptoms would go away as soon as the screening was removed. We provided complete results of that study to anyone interested and will be happy to provide them to you. They are summarized in an April 27, 1993 report by Dr. Clifton D. Crutchfield, a complete copy of which is enclosed.

Even though the University of Alabama School of Public Health is a separate and independent testing facility, some consumers were not satisfied with one set of test data and insisted upon having *their* screening tested at a facility of their own choosing. Consequently, we ended up having the product tested a total of five times. *None of these tests ever detected emissions of any substance at levels that could be considered toxic or hazardous to your health.*

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Mr. Peter I. Tzilos

July 29, 1996

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The first four tests are summarized in the enclosed copy of Dr. Crutchfield's 1993 report. The most sophisticated testing was performed by Air Quality Sciences, Inc. ("AQS") in 1994. A complete copy of the AQS report ("Indoor Air Quality Evaluation of Vinyl Coated Fiberglass Window Screening") is also enclosed.

AQS was selected by a homeowner on the advice of her environmental consultant. AQS is a highly respected laboratory that performs testing for the U.S. Environmental Protection Agency. The homeowner mailed samples of her screens (which are identical to yours - 1988 vintage silver gray) directly to AQS.

The AQS Report is full of technical data that was beyond my comprehension, so I requested and received a three-page "Interpretative Report" to explain the data. I also asked Dr. Crutchfield to analyze the AQS data, which he did in a letter dated November 23, 1994 (copy enclosed).

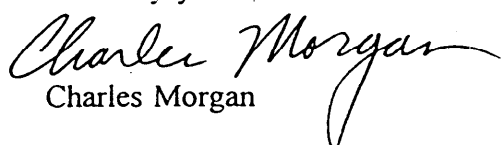
The Air Quality Sciences Interpretative Report (copy enclosed) puts the test data into perspective by comparing the total volatile organic compounds (TVOC) emissions from our product with "normal ranges" established for other indoor building materials. Though the report notes that no normal ranges have been established for window screen emissions, it compares the results of our product testing to the criteria established for carpets, flooring and wall coverings. AQS notes that the emissions from our products were at levels significantly below the TVOC emissions criteria established for carpets, flooring and wall coverings. The report also states that a regulatory evaluation of the chemicals detected in emissions from our product "did not indicate the presence of any known human or potential human carcinogens."

Dr. Crutchfield found the results of the AQS study to be "consistent with the results of four previous tests done of PhiFer screening material that I reviewed and summarized in a report dated April 27, 1993. Those previous studies, conducted independently by four separate laboratories and/or environmental firms, also found emission rates from PhiFer screening materials to be far below any level considered to be potentially toxic."

To the best of my knowledge, there has been no testing of this product other than the five studies identified in this letter and in the enclosed reports. I have seen no data that contradict the findings of Dr. Crutchfield and the other researchers.

If you would like to discuss this subject further, please call me.

Sincerely yours,


Charles Morgan

Enclosures

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COPY

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JUDITH ALLEN, CLERK
S. KELLER
DEPUTY CLERK

DOHN M. ROSENTHAL, ID#002132
Dohn M. Rosenthal, P.C.
3010 N. 67th Place
Scottsdale, Arizona 85251
(602) #945-2676

ATTORNEY FOR PLAINTIFF

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

CV93-12872

GERTRUDE KAMUDA, a widow

Plaintiff,

Vs.

JOHN W. EDWARDS And JANE DOE
EDWARDS, Husband & Wife; dba
SUNTROL, and SUNTROL WINDOW
PRODUCTS; And SUNTROL RE-
FLECTIVE COATINGS, INC. An
Arizona Corporation; SCOTTSDALE
TRAILS ASSOCIATION, A
Corporation and Homeowners'
Association; PHIFER WIRE
PRODUCTS, INC., A Foreign
Corporation; JOHN & JANE DOES
I thru X; and BLACK & WHITE
CORPORATIONS, I thru V,

Defendants.

No. _____

COMPLAINT

COMES NOW, the Plaintiff by and through her attorney undersigned, and for her claim and cause of action alleges as follows:

COUNT ONE

I.

That at all times herein pertinent, the Plaintiff is and was a widow, and a resident of the County of Maricopa, State of Arizona.

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II.

That the Defendant, SUNTROL and the Defendant SUNTROL WINDOW PRODUCTS, (referred to hereinafter as "Suntrol") are possible corporations, and if corporations are or were at all times material hereto, doing business in the County of Maricopa, State of Arizona.

III.

That the Defendant SUNTROL REFLECTIVE COATINGS, INC. is an Arizona Corporation; and said corporation is or was at all times material hereto, authorized to do and doing business in the County of Maricopa, State of Arizona.

IV.

That the Defendants JOHN W. EDWARDS and JANE DOE EDWARDS are Husband and Wife, and at all times material hereto are or were doing business under the names SUNTROL and SUNTROL WINDOW PRODUCTS.

V.

That the Defendant, PHIFER WIRE PRODUCTS, INC. (referred to hereinafter as "Phifer"), is a foreign corporation authorized to business and/or doing business in the County of Maricopa, State of Arizona.

VI.

That the Defendant SCOTTSDALE TRAILS ASSOCIATION, (referred to hereinafter as "Scottsdale Trails"), is a corporation and homeowners association representing the tenants in Scottsdale Trails, and is doing business and/or authorized to do business in the County of Maricopa, State of

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1 Arizona.

2 VII.

3 That all of said Defendants caused acts or events to
4 occur in the State of Arizona out of which the claim which is
5 the subject of this Complaint arose, and are doing business in
6 Arizona, and are subject to service of process in the State of
7 Arizona by reason thereof.

8 VIII.

9 That the true names or capacities, whether individual,
10 corporate, associate or otherwise of the Defendants, JANE DOE
11 EDWARDS, JOHN & JANE DOES I thru X, and BLACK & WHITE
12 CORPORATIONS I thru V, are unknown to Plaintiff at this time,
13 and therefore Plaintiff sues said Defendants, and each of
14 them, by such fictitious names and prays leave of court to
15 insert their true names and capacities as and when the same
16 have been ascertained; that all acts or events complained of
17 herein occurred in Maricopa County, Arizona, and were caused
18 by said defendants.

19 VI.

20 That all of the said Defendants were either joint
21 tortfeasors with all of the other Defendants, and are
22 therefore concurrently, jointly and severally liable for the
23 acts, negligence, breach of warranty, products liability, and
24 omissions herein described, or they are otherwise secondarily
25 liable for such acts, breach of warranty, products liability,
26 negligence and omissions being in the chain of distribution of
27 the subject products. At all times mentioned herein, the

1 Defendants, and each of them, were the agents, servants,
2 employees, and/or spouses of their remaining co-Defendants and
3 each was at all times acting within the scope and course of
4 said agency, service, employment, marital community and/or
5 were in the chain of distribution of the subject products.

6 X.

7 The the Defendant, PFIFER WIRE PRODUCTS, INC., is a
8 business engaged in the manufacture, sale, marketing and
9 distribution of wire products and screening for use by
10 consumers including screens and screening material used in
11 homes and residences.

12 XI.

13 That at an undertermined time in or prior to
14 December, 1991 the Defendant, PFIFER WIRE PRODUCTS, INC.,
15 acting in the ordinary course of their business, manufactured
16 or had manufactured to their specifications, screens and/or
17 screening material for use by members of the public, and
18 distributed the same to or thru their co-defendants herein.
19 Said screens and/or screening was expected to reach and did
20 reach the ultimate user in a condition substantially unchanged
21 from that in which it was sold.

22 XII.

23 That at an undetermined time in or prior to December,
24 1991 the Defendants SUNTROL, and/or SUNTROL WINDOW PRODUCTS,
25 and JOHN W. EDWARDS, and SUNTROL REFLECTIVE COATINGS, INC.
26 (collectively called "Suntrol hereinafter), in the ordinary
27 course of their business, used the screens and/or screening
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1 material that they received from the Defendant, PHIFER WIRE
2 PRODUCTS, INC., to fabricate and/or put together screens
3 and/or to distribute screens and/or screening manufactured by
4 the Defendant/PHIFER. At the time, said screens and/or
5 screening was expected to reach and did reach the ultimate
6 user in a condition substantially unchanged from that in which
7 it was sold.

8 XIII.

9 That in the fall of 1991, the Defendants/EDWARDS and
10 SUNTROL and all other compaines with who the Defendant JOHN W.
11 EDWARDS was associated, including PHIFER, entered into an
12 agreement wherein the Defendants/SUNTROL promised to sell and
13 deliver, and did sell and deliver sun screens to the
14 Defendant/SCOTTSDALE TRAILS, to be used by the owners of
15 Townhouses at the Scottsdale Trails Townhouses; and the
16 Defendant/SCOTTSDALE TRIALS did promise to pay for, and did
17 pay for screens of the type and quality which would be
18 suitable for use in the above referenced townhouse complex.
19 The screens and/or screening material were expected to reach
20 and did reach the ultimate user in a condition substantially
21 unchanged from that in which they were bought.

22 XIV.

23 That at an undetermined time in or prior to
24 December, 1991 the Defendants/SUNTROL and SCOTTSDALE TRAILS
25 ASSOCIATION distributed in the regular course of their
26 business, screens to the tenants in the aforesaid townhouse
27 complex, including some to the Plaintiff, GERTRUDE KAMUDA. At
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1 the time of the distribution of said screens, they were
2 expected to reach and did reach the ultimate user in a
3 condition substantially unchanged from that in which they were
4 sold.

5 XV.

6 That as a direct and proximate cause of the screens and
7 screening material being installed in the Plaintiff's
8 townhouse, at or about December 13, 1991 the Plaintiff became
9 ill, which condition resulted from exposure to the screens
10 installed in her townhouse. Further, that said screens
11 emitted odors and materials into the air which adversely
12 effected the Plaintiff, including irritating her eyes, causing
13 her pulmonary problems and an inability to breath. That
14 through her exposure to this product, the Plaintiff was
15 compelled to seek medical care and treatment and was
16 subsequently hospitalized as a result of the adverse effects
17 caused by said exposure to the screens installed in her
18 townhouse as aforesaid.

19 XVI.

20 That as a direct and proximate cause of the foregoing,
21 the Plaintiff suffered damages to be determined at or before
22 trial for the loss of her health due to her exposure to said
23 screens, with other damages including but not limited to sums
24 expended for her medical costs and expenses which approximate
25 \$9,932.74 to date, with general damages of \$250,000.00.

26 WHEREFORE, Plaintiff prays for judgment against the
27 Defendants, and each of them, as follows:

1 1. For Plaintiffs medical expenses incurred to date in
2 the approximate sum of \$9,932.74, all of which will be
3 evidenced at trial.

4 2. For Plaintiffs special and general damages of
5 \$250,000.00, or an amount to be determined at or before trial.

6 3. For Plaintiffs costs incurred herein and expended.

7 4. For such other and further relief as the Court deems
8 proper under these premises.

9 COUNT TWO:

10 I.

11 Plaintiff adopts by reference herein all of the
12 allegations set forth in Count One, and the same are
13 incorporated as if fully set forth herein.

14 II.

15 That the Defendants, and each of them, were engaged in
16 the business of manufacturing, selecting, selling, delivering
17 and/or purchasing sun screens and other window products, and
18 undertook to manufacture, test or failed to test, sell,
19 deliver and/or purchase screens to be used by Plaintiff, and
20 thereby owed a duty to Plaintiff of reasonable care in the
21 manufacture, testing, selection of products, sale and delivery
22 of said screens.

23 III.

24 That in violation of said duty, the Defendants
25 negligently and careless manufactured, selected, sold,
26 delivered and/or purchased screens for use by Plaintiff.

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IV.

That the Defendants were jointly and severally negligent in that:

1. The screening sold for use by the Plaintiff in the above referenced townhouse complex, was negligently and improperly manufactured, selected, tested, sold, delivered and purchased, so as to cause the Plaintiff to be sick and hospitalized as aforesaid.

2. The screens sold for use in the Plaintiff's windows and townhouse were negligently and carelessly manufactured so as to cause persons exposed to the same to become sick.

3. The Defendants negligently and carelessly failed to see that said screens were made in a manner sufficient to avoid exposure to contaminants and irritants by those exposed to said screens.

4. The Defendants negligently and carelessly supplied screens for the Plaintiff's use which were inappropriate for use in said townhouse, being that said screens adversely effected persons exposed thereto.

V.

That the joint and several acts and/or omissions of the Defendants and their agents, servants and employees was the direct and proximate cause of Plaintiff's illness, injuries and damages as previously alleged.

VI.

That as a result of said exposure, the Plaintiff became injured, ill and hospitalized as aforesaid.

120

1 WHEREFORE, Plaintiff prays for judgment against the
2 Defendants, and each of them, as follows:

3 1. For Plaintiff's medical expenses incurred to date in
4 the approximate sum of \$9,932.74, all of which will be
5 evidenced at trial.

6 2. For Plaintiff's special and general damages of
7 \$250,000.00 or an amount to be determined at or before trial.

8 3. For Plaintiff's costs incurred and expended herein.

9 4. For such other and further relief as the Court
10 deems proper under these premises.

11 COUNT THREE

12 I.

13 Plaintiff adopts by reference the allegations set forth
14 in Counts One and Two above, and the same are incorporated as
15 if fully set forth herein.

16 II.

17 At the time of the making of the agreements for sale and
18 delivery of the subject screens and screening material as more
19 fully set forth hereinbefore in Count One, the Defendants had
20 reason to know of and did know of the purpose to which said
21 screens were to be put.

22 III.

23 That in breach of said agreement, the Defendants failed
24 to supply screens and screening material which were suitable
25 for use in the Plaintiff's townhouse.

26 IV.

27 That as a direct and proximate result of the Defendants'

1 breach or breaches, the above referenced screens and screening
2 material caused Plaintiff the injuries, and damages previously
3 alleged.

4 WHEREFORE, the Plaintiff prays for judgment against the
5 Defendants, and each of them, as follows:

6 1. For Plaintiff's medical expenses incurred to date in
7 the approximate sum of \$9,932.74, all of which will be
8 evidenced at trial.

9 2. For Plaintiff's special and general damages of
10 \$250,000.00 or an amount to be determined at or before trial.

11 3. For Plaintiff's costs incurred and expended herein.

12 4. For such other and further relief as the Court
13 deems proper under these premises.

14 COUNT FOUR

15 I.

16 Plaintiff adopts by reference all the allegations set
17 forth in Counts One, Two and Three above, and the same are
18 incorporated as if fully set forth herein.

19 II.

20 That the Defendants warranted the screens and/or
21 screening material to the general public as a basis for the
22 agreement for sale and delivery of said screens and/or
23 screening as more fully set forth in Count One; and the
24 Defendants expressly and impliedly warranted and represented
25 that said screens and/or screening was suitable for use in the
26 above referenced townhouse and that said screening was fit for
27 the purpose and proposed intended use by the Plaintiff.

1 III.

2 That in breach of said warranties and representations
3 the Defendants sold, for use by Plaintiff, the screens and/or
4 screening which was not suitable for use in said townhouses,
5 and was not in a merchantable condition at the time of said
6 sale, and which was not fit for the purposes and proposed use
7 intended by the Plaintiff.

8 IV.

9 That as a direct and proximate result of Defendants'
10 breach, the Plaintiff became sick and hospitalized, and
11 Plaintiff suffered damages as more fully set forth in Count
12 One.

13 WHEREFORE, Plaintiff prays for judgment against the
14 Defendants, and each of them, as follows:

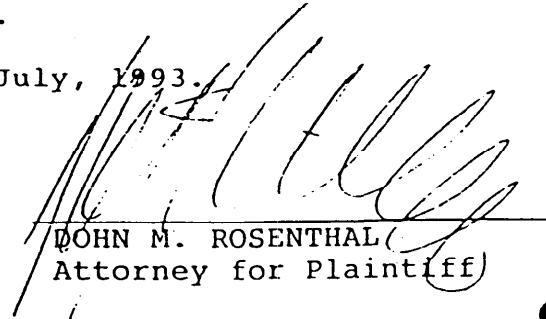
15 1. For Plaintiff's medical expenses incurred to date
16 in the approximate sum of \$9,932.74, all of which will be
17 evidenced at trial.

18 2. For Plaintiff's special and general damages of
19 \$250,000.00, or an amount to be determined at or before trial.

20 3. For Plaintiff's costs incurred and expended herein.

21 4. For such other and further relief as the court
22 deems proper under these premises.

23 DATED this 12th day of July, 1993.

24
25 
26 JOHN M. ROSENTHAL
27 Attorney for Plaintiff
28

STATE OF ARIZONA)
)
COUNTY OF MARICOPA)

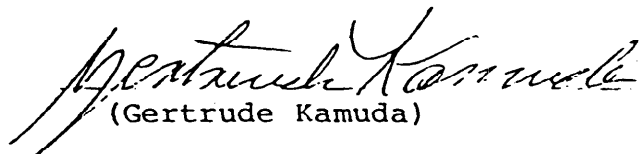
SS.

I, — GERTRUDE KAMUDA

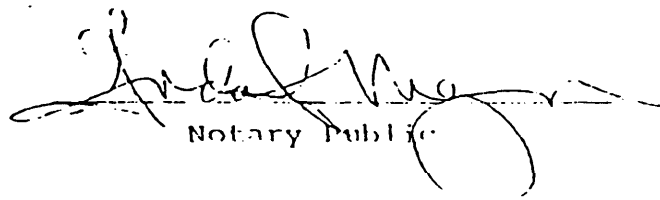
being first duly sworn upon oath, state as follows:

That I am the Plaintiff

in the above-entitled and numbered cause of action and make
this verification on my own behalf; that I have read the
above and foregoing COMPLAINT
and know the contents thereof, and that the allegations
therein contained are true of my own knowledge, except for
those matters as are therein alleged to be upon informa-
tion and belief, and as to such matters, I believe them
to be true.


(Gertrude Kamuda)

SUBSCRIBED and SWORN to before me this 7-8-93
day of July, 1993.


Notary Public

My Commission Expires:
June 19, 1997

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